



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N145; FXES11120800000–167–FF08EVEN00]

Receipt of Application for Renewal of Incidental Take Permit for Morro

**Shoulderband Snail; Kellaway Habitat Conservation Plan; Community of Los Osos,
San Luis Obispo County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit renewal application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Thomas R. Kellaway and Doris J. Redmond (permittees), for a renewal of incidental take permit TE48316A (ITP) under the Endangered Species Act of 1973, as amended (Act). The requested a renewal would extend ITP expiration by 5 years from the date of reissuance. The existing ITP authorizes take of the federally endangered Morro shoulderband (=banded dune) snail (*Helminthoglypta walkeriana*) incidental to otherwise lawful activities associated with the construction of one residence on each of two separate but contiguous parcels in Los Osos, an unincorporated community of San Luis Obispo County. If renewed, the ITP would not authorize any additional take of the species.

DATES: Written comments should be received on or before **[INSERT DATE 30**

DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Obtaining Documents:* You may obtain a copy of the HCP by writing to the Ventura Fish and Wildlife Ecological Services Office, Attn: Permit Number TE48316A, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura,

California 93003. We will make the HCP available for public inspection by appointment during normal business hours at the above address.

Submitting Comments: Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. Comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Julie M. Vanderwier, Fish and Wildlife Biologist, Ventura Fish and Wildlife Office, at the above address or by calling (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service listed the Morro shoulderband (=banded dune) snail as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. “Incidental Take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are, respectively, in the Code of Federal Regulations at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish,

wildlife, or plant species. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The Kellaway HCP area includes two existing legal parcels of 5.08 acres and 0.45 acre, legally described as Assessor Parcel Numbers 074-022-042 and 074-483-052, respectively. Both are located between Seahorse Lane and San Leandro Court in the southwestern portion of the unincorporated community of Los Osos, San Luis Obispo County, California. The current ITP authorizes incidental take of Morro shoulderband snail that would result from direct impacts to 1.68 acres of coastal dune scrub, maritime chaparral, and ruderal habitat occupied by this species. Take would be incidental to the otherwise lawful construction of a single-family residence on each of the two parcels, along with limited habitat enhancement on the larger of the parcels.

Incidental Take Permit

The ITP was issued on September 21, 2011, and expires on September 20, 2016. The process to obtain a Coastal Development Permit from the California Coastal Commission took much longer than anticipated and required a project redesign. This redesign did not exceed the 1.68-acre development area or change the amount or form of take of Morro shoulderband snail currently authorized in the ITP. The permittees have requested no change to the covered species, covered activities, or HCP area and commit to fully implement the HCP. Measures to minimize the amount and form of take include the following: (1) Pre-construction and construction monitoring surveys for Morro shoulderband snail within the 1.68-acre impact area, (2) capture and moving of all identified individuals of Morro shoulderband snail into the conservation easement area by

an individual in possession of a current valid recovery permit for the species, (3) installation of protective fencing, and (4) development and presentation of a contractor and employee training program for Morro shoulderband snail. Mitigation for unavoidable take of Morro shoulderband snail includes: (1) Preservation in perpetuity of 3.83 acres of coastal dune scrub and maritime chaparral habitats occupied by Morro shoulderband snail in a conservation easement that will preclude any use not consistent with resource management, (2) enhancement of 0.24 acres of disturbed coastal dune scrub within the conservation easement to increase its value and function for Morro shoulderband snail, (3) post-construction monitoring and maintenance of the habitat enhancement activities within conservation easement area for a period of 4 years to ensure its success, and (4) establishment of a Letter of Credit in the amount of \$16,740 to ensure that adequate funding is available to implement all of the minimization and mitigation measures contained in the plan.

Our Preliminary Determination

The Service has made a preliminary determination that ITP renewal would not represent a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA). As such, it will not have, individually or cumulatively, more than a negligible effect on the species covered in the HCP. Therefore, we have determined that the incidental take permit for this project is “low effect” and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by 43 CFR 46.205 and 43 CFR 46.210.

Public Comments

If you wish to comment on the permit renewal and/or HCP, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: August 26, 2016.

**Stephen P. Henry, Field Supervisor,
Ventura Fish and Wildlife Office,
Ventura, California.**

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